

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

v.

BRITTNEY RIDGEWAY,

Defendant.

DECISION AND ORDER
18-CR-27-A

Defendant Brittney Ridgeway filed a motion to modify her sentence pursuant to 18 U.S.C. § 3582(c)(2), based upon Part A of Amendment 821 to the Sentencing Guidelines. ECF 50. As relevant here, Part A of Amendment 821 altered Guidelines § 4A1.1(e), by reducing from two (2) points to one (1) point the upward adjustment for offenders who committed the instant offense while under any criminal sentence, and by limiting this adjustment to defendants who received seven (7) or more criminal history points. As the Government (ECF 55) and the Probation Office (ECF 52) agree, the limitation in status points created by the Amendment has the effect of lowering Defendant's criminal history category from criminal history category IV to criminal history category III.

Despite this reduction in her criminal history category, Defendant is—as she now recognizes, *see*, ECF 61—ineligible for a sentencing reduction. With a total offense level of 40, any reduction in her criminal history category from IV to III still yields a sentencing range of 360 months to life. Since the amendment would not have altered the defendant's sentencing range even if it had been applicable at the

time of her sentencing, defendant is not eligible for a sentencing reduction. See U.S.S.G. § 1B1.10(a)(2)(B); *see also*, *United States v. Derry*, 824 F.3d 299, 307 (2d Cir. 2016) (where defendant's sentencing range “has not ‘subsequently been lowered by’ [an] Amendment” to the Guidelines, Defendant “is ineligible for a sentence modification.”); *United States v. McGee*, 553 F.3d 225, 227 (2d Cir. 2009); *United States v. Harville*, No. 09-CR-331-A, 2024 WL 93204, at *3 (W.D.N.Y. Jan. 9, 2024).

Accordingly, notwithstanding the reduction in Defendant’s criminal history category from IV to III, her motion to modify her sentence (ECF 50) is **DENIED**.

IT IS SO ORDERED.

s/Richard J. Arcara
HONORABLE RICHARD J. ARCARA
UNITED STATES DISTRICT COURT

Dated: May 6, 2024
Buffalo, New York